

## REMARKS

Claims 1, 3 – 11, 13 – 16 and 20 – 25 remain in the application and stand finally rejected. Claims 2, 12 and 17 – 19 are previously canceled. Claims 1, 8, 9, 13, 15 and 20 are amended by this proposed amendment. No new matter has been added. Although this Amendment is being filed with the fee for an extension of time, the Commissioner is hereby authorized to charge any additional fees that may be required for this paper or credit any overpayment to Deposit Account No. 50-3818.

The “examiner should always look for enabled, allowable subject matter and communicate to applicant what that subject matter is at the earliest point possible in the prosecution of the application.” MPEP 2164.04, last paragraph (emphasis original).

Claims 1, 3, 6, 9, 15, 16 and 20 – 22 are finally rejected as being unpatentable under 35 U.S.C. §102(e) over published U.S. patent application No. 2002/0118671 to Staples et al. Claims 4, 5, 7, 8, 10, 11, 13, 14 and 23 – 25 are finally rejected as being unpatentable under 35 U.S.C. §103(a) over Staples et al. in view of published U.S. patent application No. 2001/0026609 to Weinstein et al. The final rejection is respectfully traversed.

The final Office action (Final) asserts that Staples et al. shows “a remotely connected device communicating with said communications server (fig. 3A. 130); and a remote telephone (fig. 11.1110) connected to said public telephone network (fig. 11.115; **connected through the remote device**);” page 2, (emphasis added).

Staples et al. teaches a “[c]lient computer 112 may be coupled to a telephony device 1110” with the client computer 112 connected to a switching network 115. Paragraph 0182. Further, the “client computer 112 receives the real-time data and regular data from modem 1113, ... [with] a telephony client application [that] may

receive real-time telephony data which is used to drive telephony device 1110."

Paragraph 0190. So, Staples et al. teaches a telephony device that is connected to and driven by a client computer that passes calls to/from it.

With regard to claims 23 – 25, the Final acknowledges that "Staples does not disclose wherein said remotely connected device is one of a plurality of devices comprising a cell phone and a WAP." Pages 8 – 9, # 20, 21. Thus, the Final turns to Weinstein et al. to teach "choosing between a plurality of devices in paragraphs 8 and 76. Weinstein discloses a cell phone and WAP device as one of the plurality of choices for remotely connected device in paragraph 8." *Id.*

Claim 23 includes all of the recitations of finally rejected claim 1, including "a **remote telephone connected to said public telephone** network and located in the vicinity of said remotely connected device, telephonic communications being provided to and from said remote telephone **through said public telephone network** in cooperation with said communications server and controlled by said remotely connected device,... ." Lines 9 – 14 (emphasis added). Moreover, claim 23 recites that the VCPN includes multiple phones connecting over multiple public networks, i.e., "an analog telephone **connected to a land line** to said public telephone network, a cell phone **connected to a cellular network** and a wireless access protocol (WAP) **connected to a wireless network**" (emphasis added). Thus, adding the Weinstein et al. cell phone and WAP device to Staples et al. results in cell phone and WAP device coupling through the Staples et al. client computers 112 with telephony client application receiving real-time telephony data used to drive each phone. However, neither Staples et al. nor Weinstein et al. teaches how this could be accomplished.

Moreover, "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)." MPEP §2143.03 VI. There is no way to combine the Weinstein et al. cell phone and WAP device with Staples et al. to

result in the present invention, as recited in claims 23 – 25, without changing Staples et al. principles of operation, i.e., the respective phones connecting through a respective network. Therefore, the combination of Staples et al. with Weinstein et al. fails to result in, teach or suggest the present invention as recited claims 23 – 25. Reconsideration and withdrawal of the final rejection of claims 23 – 25 under 35 U.S.C. §103(a) is respectfully requested.

Further, claims 1, 8, 9, 13, 15 and 20 are amended by this proposed amendment to specifically recite that the telephony devices are directly connected to the public telephone network; and that the connection is separate from the remote devices. This is neither shown nor suggested by any reference of record; Staples et al. specifically shows the telephony device 1110 connected through the remote device. Further, this is supported by Figure 1, by the specification as filed and by claims 23 – 25. No new matter is added. Entry of the amendment, reconsideration and withdrawal of the final rejection of claims 1, 9, 15 and 20 under 35 U.S.C. §102(e) and claims 8 and 13 under 35 U.S.C. §103(a) is respectfully requested.

Moreover, dependent claims include all of the differences with the references, as the claims from which they depend. MPEP §2143.03 ("If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)."). Therefore, Staples et al. fails to teach the present invention as recited by claims 3, 6, 16, 21 and 22; and the combination of Staples et al. with Weinstein et al. fails to result in, teach or suggest the present invention as recited claims 4, 5, 7, 8, 10, 11, 13, 14; all of which depend from claims 1, 9, 15 and/or 20. Reconsideration and withdrawal of the final rejection of claims 3 – 8, 10, 11, 13, 14, 16, 21 and 22 under 35 U.S.C. §§102(e) and 103(a) is respectfully requested.

The applicants thank the Examiner for efforts, both past and present, in examining the application. Believing the amendment to place application in condition for allowance, both for the amendment to the claims and for the reasons set forth above,

the applicants respectfully request that the Examiner enter the amendment, reconsider and withdraw the final rejection of claims 1, 3 – 11, 13 – 16 and 20 – 25 under 35 U.S.C. §§102(e) and 103(a) and allow the application to issue.

The applicants have previously noted that MPEP §706 "Rejection of Claims," subsection III, "PATENTABLE SUBJECT MATTER DISCLOSED BUT NOT CLAIMED" provides in pertinent part that

If **the examiner** is satisfied after the search has been completed that patentable subject matter has been disclosed and the record indicates that the applicant intends to claim such subject matter, he or she **may note** in the Office action that **certain aspects or features** of the patentable invention have not been claimed and that if properly claimed such claims **may be given favorable consideration**.

(emphasis added.) The applicants continue to believe that the written description of the present application is quite different than and not suggest by any reference of record. Accordingly, should the Examiner believe anything further may be required, the Examiner is requested to contact the undersigned attorney at the telephone number listed below for a telephonic or personal interview to discuss any other changes.

Date: September 4, 2008

Respectfully submitted,

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